

VOTE “NO” ON S. 558 AS A SUBSTITUTE AMENDMENT TO HR 1424

- S. 558 - Codifies discrimination by diagnosis by allowing plans to use arbitrary, non-scientific criteria in determining what mental illnesses and addictive disorders their plans cover. Allowing private health plans the “flexibility” to cover whatever mental illnesses they choose results in cost shifting to the federal government – private insurance payments for addiction services accounted for only 9% of substance use disorder spending and 24% of total mental health spending in 2003 while the public sector paid for 91% of substance use disorder treatment and 58% of all mental health spending during the same period. Private plans are not adequately covering these illnesses.
- In a change from earlier versions of S. 558, the current version of S. 558 stays silent on preemption. As a result, stronger state laws may not be protected and the silence is still going to risk the threat of costly lawsuits.
- Today, fully insured plans can be sued over benefit denials. S.558 would remove these legal remedies for patients.
- Often consumers in fully insured plans with addiction and mental illnesses lack information about their plans’ definition of “medically necessary” care and are often unable to receive this definition from their plan administrator. While ERISA plans are required to make this information available to their plan participants, this requirement is often not enforced. Similarly, some providers are also unable to access this information prior to contracting with plans. S. 558 would institutionalize these deceptive and misleading insurances practices and perpetuate lack of clarity in benefit descriptions. Health plans’ application of medical necessity criteria was the number one reason for denial of care that emerged during mental health and addiction parity field hearings.
- S. 558 - Lacks parity in out-of-network benefits. Per testimony at the mental health and addiction parity field hearings, plans often claim that there are adequate numbers of trained specialists in their networks when in fact plans frequently lack mental health and addiction specialists in child and adolescent and other types of specialty care.
- S. 558 - Lacks any enforcement mechanism. HR 1424 has a \$100 per day, per violation IRS penalty.